

EXHIBIT D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Gordon Moore ALLAN et al.
U.S. Serial No. : 09/784,962
Filing Date : February 16, 2001
Patent No. :
Issued :
Examiner : Shanon A Foley
Art Unit : 1648
For : **PORCINE CIRCOVIRUS AND PARVOVIRUS VACCINE**
745 Fifth Avenue, New York, NY 10151

**ASSIGNEE'S DECLARATION IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Judy Jarecki-Black, Ph.D, J.D., declare and state that:

1. I am a registered patent attorney, Reg. No. 44,170. My position is that I am Head, Global Intellectual Property, Merial Ltd., 3239 Satellite Blvd., Duluth, Georgia 30096-4640 USA. I have held this position since July 2002. Merial Ltd. is the ultimate parent company of all Merial companies. In my position in Merial Ltd., I am authorized to speak on behalf of Merial Ltd. and all Merial companies as to patent matters, and am thus qualified to speak on behalf of the assignee in the above-captioned patent application ("the present application"). Accordingly, in this Declaration, I am speaking on behalf of Merial Ltd. and the assignee of record (if it is a Merial company other than Merial Ltd.; individually and collectively "Assignee"), as well as myself.

2. The Assignee and I are advised and therefore believe that the Declaration and Power of Attorney originally filed in this application may have had "inventor" signature(s) affixed to it by a person who was not an inventor, and who was not authorized by the Assignee and I to sign on behalf of inventor(s).

3. More in particular, the Assignee and I are advised and therefore believe that:

(a) French industrial property counsel firm (Conseils en Propriété Industrielle) ("C") was responsible for transmitting formal papers such as the Declaration and Power of Attorney, and Assignment, to inventors, obtaining signatures thereon, and forwarding the executed formal papers to the Assignee's patent law firms outside of France for filing with the respective Patent Offices.

(b) Individual "HC" is in the employ of C as a clerk.

(c) Individual "CD" was in the employ of C as a foreign section assistant supervisor; a superior to HC.

(d) Individual CD instructed individual HC to affix signatures of inventors to documents. HC did as instructed by CD. CD also affixed signatures of inventors to documents. No inventor authorized CD or HC to affix a signature to a document or CD to instruct another to affix an inventor signature to a document. Documents having such signatures were forwarded by C to the Assignee's US patent law firms for filing in the USPTO, and were filed in the USPTO.

4. The Assignee and I were unaware of CD's instructions and CD's actions and HC's actions; did not authorize those instructions or actions; and hence, the Assignee and I acted without deceptive intent as to those instructions and actions. In particular, in my position, upon being advised of the foregoing information in paragraph 3, *supra*, I, with the assistance of outside patent counsel, investigated what had occurred, and hereby state that the Assignee and I were unaware, at the time of filing the original Declaration and Power of Attorney in the present application, that it may not have actually had signatures of inventor(s) affixed to it; and, at the time of filing the original Declaration and Power of Attorney in the present application, the Assignee and I believed that C had transmitted to the Assignee's US patent law firm a Declaration and Power of Attorney that had actual signatures of inventor(s) affixed to it. Indeed, at the time of filing the original Declaration and Power of Attorney in the present application and any other signed documents from C, the Assignee and its US patent firm and I had trusted C as to the signatures on such documents and believed that those documents had actual signatures; the Assignee, the Assignee's US patent firm, and I had no reason to doubt or not trust C. Thus, the Assignee and I acted in good faith and without deceptive intent with respect to the filing with the USPTO of the original Declaration and Power of Attorney, and any other signed documents the Assignee's US patent law firm received from C for filing with the USPTO. Furthermore, the

Assignee and I also have taken steps to prevent this situation from arising in the future, including dismissing C as a representative of the Assignee as to patent matters.

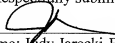
5. This Declaration is in support of a Petition that a new Declaration and Power of Attorney submitted with the Petition be accepted, that this application and any patent from this application be revived, with the effect that the Declaration and Power of Attorney filed with the Petition be accepted *nunc pro tunc* (accepted now as if it were filed when a correct Declaration and Power of Attorney should have been filed during prosecution), and that any necessary Rules be waived to achieve that relief.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

09 JUN 04

(date)

Respectfully submitted,



Print Name: Jody Jarecki-Black, Reg. No. 44,170

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PETITION TO REVIVE AND WAIVE RULES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, DR. PHILIP G. ANTON declare and state that:

1. My position is that I am Intellectual Property Manager. In this position, I am authorized to speak on behalf of The Queen's University of Belfast, 2 Stoney Road, Stormont, Belfast BT4 3SD, Great Britain, an assignee in the above-captioned patent application ("the present application"). Accordingly, in this Declaration, I am speaking on behalf of The Queen's University of Belfast, an assignee of record ("Assignee").

2. The Assignee is advised and therefore believes that the Declaration and Power of Attorney originally filed in this application may have had "inventor" signature(s) affixed to it by a person who was not an inventor, and who was not authorized by the Assignee and I to sign on behalf of inventor(s).

3. More in particular, the Assignee is advised and therefore believes that:

(a) French industrial property counsel firm (Conseils en Propriété Industrielle) ("C") was responsible for transmitting formal papers such as the Declaration and Power of Attorney, and Assignment, to inventors, obtaining signatures thereon, and forwarding the executed formal papers to the Assignee's patent law firms outside of France for filing with the respective Patent Offices.

- (b) Individual "HC" is in the employ of C as a clerk.
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supervisor; a superior to HC.

(d) Individual CD instructed individual HC to affix signatures of inventors to documents. HC did as instructed by CD. CD also affixed signatures of inventors to documents. No inventor authorized CD or HC to affix a signature to a document or CD to instruct another to affix an inventor signature to a document. Documents having such signatures were forwarded by C to the Assignee's US patent law firms for filing in the USPTO, and were filed in the USPTO.

4. The Assignee was unaware of CD's instructions and CD's actions and HC's actions; did not authorize those instructions or actions; and hence, the Assignee acted without deceptive intent as to those instructions and actions. The Assignee was unaware, at the time of filing the original Declaration and Power of Attorney in the present application, that it may not have actually had signatures of inventor(s) affixed to it; and, at the time of filing the original Declaration and Power of Attorney in the present application, the Assignee believed that C had transmitted to the Assignee's US patent law firm a Declaration and Power of Attorney that had actual signatures of inventor(s) affixed to it. Indeed, at the time of filing the original Declaration and Power of Attorney in the present application and any other signed documents from C, the Assignee and its US patent firm had trusted C as to the signatures on such documents and believed that those documents had actual signatures; the Assignee and its US patent firm had no reason to doubt or not trust C. Thus, the Assignee acted in good faith and without deceptive intent with respect to the filing with the USPTO of the original Declaration and Power of Attorney, and any other signed documents the Assignee's US patent law firm received from C for filing with the USPTO. Furthermore, the Assignee also has taken steps to prevent this situation from arising in the future, including dismissing C as a representative of the Assignee as to patent matters.

5. This Declaration is in support of a Petition that a new Declaration and Power of Attorney submitted with the Petition be accepted, that this application and any patent from this application be revived, with the effect that the Declaration and Power of Attorney filed with the Petition be accepted *nunc pro tunc* (accepted now as if it were filed when a correct Declaration and Power of Attorney should have been filed during prosecution), and that any necessary Rules be waived to achieve that relief.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,

8.6.04
(date)

DR PHILIP GRAMAM
Print Name:

P. Gramam